

UNITED STATES DISTRICT COURT

for the
Southern District of TexasUnited States Courts
Southern District of Texas
FILED

September 27, 2024

United States of America
v.

AKWASI DURHAM

Nathan Ochsner, Clerk of Court

Case No.

4:24-mj-427

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of August 8 2024 in the county of Harris in the
Southern District of Texas, the defendant(s) violated:

Code Section

Offense Description

18 USC §922(a)(6)

False Statement to a Federal Firearms Licensee

This criminal complaint is based on these facts:

See attached affidavit.

☒ Continued on the attached sheet.

Complainant's signature

Robert Frese, ATF Special Agent

Printed name and title

Sworn to before me and signed by telephone.

Date: September 27, 2024



Judge's signature

City and state: Houston, Texas

Peter Bray, US Magistrate Judge

Printed name and title

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**IN THE MATTER OF THE
ARREST OF:
AKWASI DURHAM**

§
§
§
§

4:24-mj-427

MAGISTRATE NO.

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Robert Frese, being duly sworn, depose and state the following:

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF) and have been since May of 2022. As a Special Agent, my principal duties include investigations into the illegal possession and use of firearms by prohibited persons, burglaries, and robberies of Federal Firearms Licensee (FFLs), the criminal use of firearms in furtherance of violent crimes, organized crime, unlicensed dealing of firearms, and the illegal smuggling/trafficking of firearms domestically and internationally. Prior to my employment with ATF, I was a State Trooper in the Georgia State Patrol, for approximately three (3) years. I was previously assigned to the ATF Houston Group V, Crime Gun Strike Force from January of 2023 to March of 2024. I am currently assigned to the ATF Houston Group IX, Firearms Trafficking Task Force (FTTF) in the ATF Houston Field Division. As a State Trooper I served in numerous different assignments including patrol, the motorcycle unit and on the State of Georgia Special Weapons and Tactics Team (SWAT). During this time, I investigated numerous misdemeanor and felony violations of state law, many of which led to successful prosecution. Furthermore, I obtained my bachelor's degree Criminal Justice from The University of Mississippi.

1. I make this Affidavit in support of a criminal complaint to be presented to the United States District Court for the Southern District of Texas in the matter of United States v. **Akwasi DURHAM**.

2. This complaint charges that on or about **August 8, 2024**, in the Southern District of Texas, **DURHAM**, knowingly and unlawfully provided false information to a Federal Firearms Licensee under Title 18 U.S.C. Section 922(a)(6).

3. I base this summary of the facts upon information from my personal investigation, information provided to me by other law enforcement officers, shipping company employees and documents provided by the shipping company. This is a summary of the basic facts and not a complete description of all the information in the case. It is intended solely to demonstrate that there is sufficient evidence to establish probable cause that **DURHAM** committed the crime in question.

4. On **August 27, 2024**, I, Special Agent (SA) Frese, was notified about the seizure of multiple packages containing firearms in the Katy, Texas, area. Our investigation identified Deivis Daniel VIVAS-Briceno (VIVAS) as the person who dropped off the packages and paid to ship them to an individual located in Venezuela.

5. Specifically, I, SA Frese, interviewed Luis David DELGADO Hidalgo (DELGADO), the manager, at ZUCARGA Express (ZUCARGA), located at 320 Mason Creek Dr Suite 170 in Katy, Texas, who stated that VIVAS dropped off four identical arcade game boxes and paid to ship them to Venezuela. DELGADO further stated that he had received information from a friend, Jose Javier Ekmeiro LOPEZ (LOPEZ), at another shipping company, COVENCARGO, that VIVAS had also dropped off similar boxes at COVENVARGO and that they (COVENCARGO) had deemed them suspicious and taken it upon themselves to search them

before contacting law enforcement. DELGADO stated that COVENCARGO employees informed him that they found firearms in the boxes dropped off by VIVAS. With this information Mr. Delgado also opened one of the boxes dropped off by VIVAS. He found three (3) firearms and subsequently contacted the Homeland Security Investigations (HSI) Houston Field Office.

6. HSI Special Agent Jesse Lopez (SA Lopez) responded to ZUCARGA and notified me, SA Frese, of the rifles. During my interview of DELGADO, I examined the contents of the box that ZUCARGA employees had already opened. It contained three (3) Century Arms, Model VSKA, 7.62mm rifles, all with obliterated serial numbers. SA Lopez and I seized the opened box and the three unopened boxes (4 total). DELGADO also provided me with a shipping receipt from the four (4) boxes listing VIVAS as the shipper with the address of "1902 KATY FRAWEY HOUSTON, TX 77043." The international shipping address was listed as "JAVIER GONZALES PEREZ CALLE 72 ADIF ADAEVELIN PISO 5 ENTRE AV 3H Y 3Y MARACAIBO, ZULIA, VNZLA."

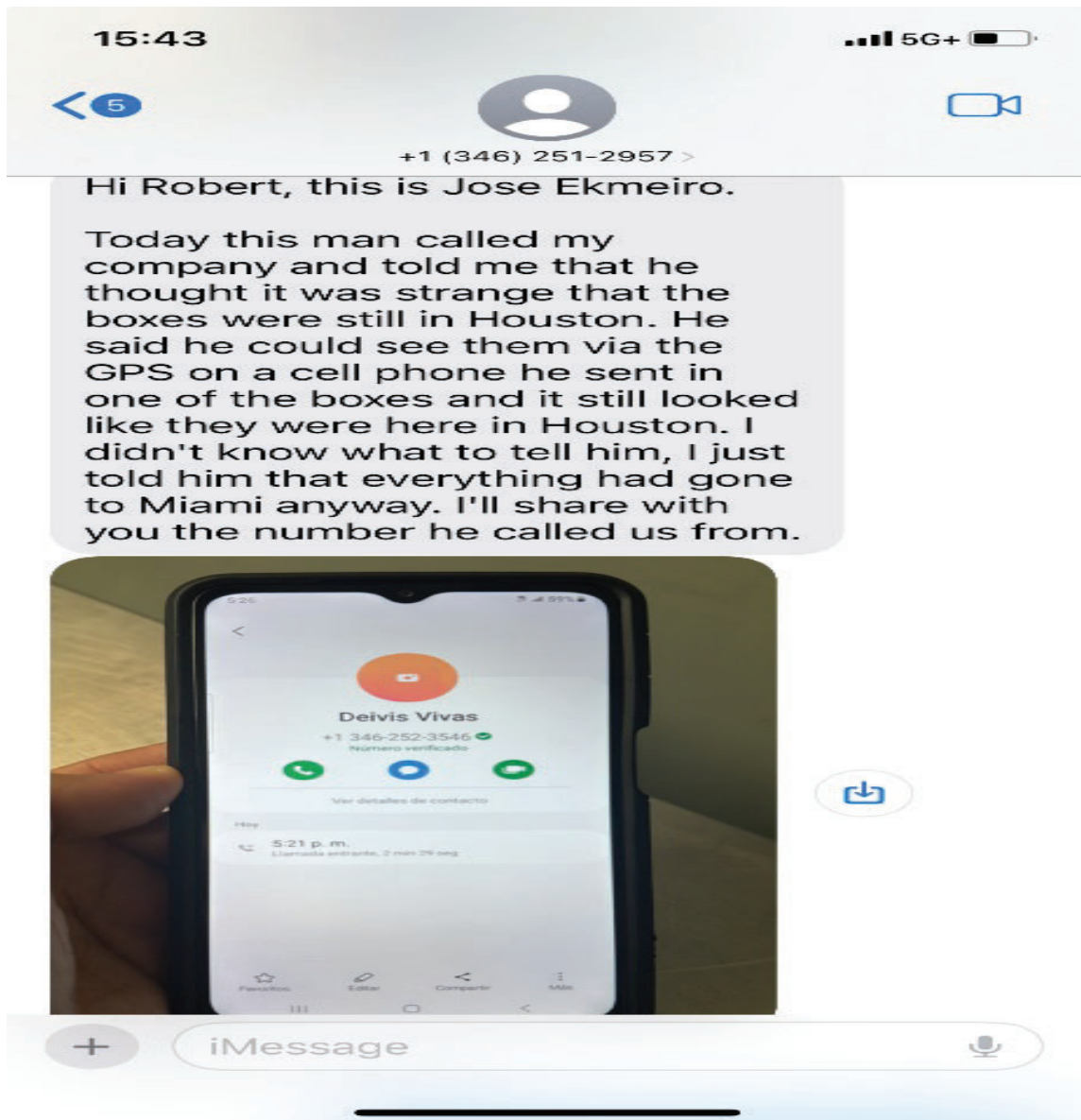
7. DELGADO further provided a photo of VIVAS as he was dropping off the packages, and a photo of the picture that VIVAS showed as his Venezuelan ID Card. The Venezuelan ID Card lists his name as Deivis Daniel VIVAS Briceno and his date of birth as January 1, 1998.





8. SA Lopez and I then traveled to COVENCARGO, located at 2910 N Mason Rd Suite 12 in Katy, Texas. I interviewed LOPEZ, the manager at COVENCARGO, who stated VIVAS had dropped off a total of four (4) boxes and had paid to ship all four (4) to an individual in Venezuela. LOPEZ stated that he thought the shipment was suspicious and that he had already opened two (2) of the boxes. LOPEZ stated he found firearms inside both boxes. COVENCARGO employees had placed the contents back in the boxes and taped them shut prior to the agent's arrival. SA Lopez and I then seized all four (4) boxes and their contents.

9. On **September 4, 2024**, I applied for a Federal Search Warrant for the seven (7) unopened boxes. United States Magistrate Judge Yvonne Y. Ho signed and approved the search warrant. Shortly after receiving the signed search warrant, I, SA Frese, received a text message from Mr. Ekmeiro stating *“Today this man called my company and told me that he thought it was strange that the boxes were still in Houston. He said that he could see them via the GPS on a cell phone he sent in one of the boxes and it still looked like they were in Houston. I didn’t know what to tell him, I just told him that everything had gone to Miami anyway. Ill share with you the number he called us from.”*



10. Later, on **September 4, 2024**, I, SA Frese, together with agents from the ATF Houston Group IX Firearms Trafficking Task Force, executed the search warrant. Agents found twenty-four (24) Century Arms, Model VSKA, 7.62mm rifles, all with obliterated serial numbers, one (1) Yugoslavia, Model 59/66, 7.62mm Rifle, Serial Number 231472, one hundred and twenty-eight (128) AK style magazines, one (1) AR style rifle barrel, seventeen (17) Century Arms Cardboard boxes, one bearing Serial Number SV7152082, and Two (2) Apple AirTags. The Serial

Numbers were observed to have been obliterated using a mechanical tool, in order to prevent law enforcement from tracing the firearms.

11. I, SA Frese, know based on my training, knowledge and experience that Apple AirTags are commonly used to track items and are used much like other GPS tracking devices. Apple AirTags emit a signal which Apple devices connected to cellular service or internet relay to show the owner of the AirTag its location. I know based off my training and experience that firearms traffickers use Apple AirTags and other GPS tracking devices to track their shipments, to ensure they are not lost or recovered by law enforcement.

12. Upon further investigation, I, SA Frese, together with ATF SA Tanner Renner, ran a trace of the two recovered serial numbers, one from a rifle and one from a rifle box. The inquiry revealed that Akwasi DURHAM (DURHAM), a United States citizen, was the original purchaser of both items. Specifically, ATF's eTrace system showed that DURHAM had purchased the Yugoslavia, Model 59/66, 7.62mm rifle, Serial Number 231472 on **August 8, 2024**, from the Federal Firearms Licensee (FFL) Full Armor Firearms LLC, nineteen (19) days prior to VIVAS dropping off the boxes in which it was later recovered.

13. The system further showed that DURHAM purchased a Century Arms, Model VSKA, 7.62mm rifle, Serial Number SV7152082 on **August 26, 2024**, from Full Armor Firearms LLC, one (1) day prior to VIVAS dropping off the box in which the label was recovered along with 24 rifles matching that description, all with obliterated serial numbers.

14. Federal Firearms Licensees (FFLs) are required to keep the ATF Form 4473 (Firearms Transaction Record) which is completed by the purchaser, which includes information regarding the name, age, current residence of the purchaser, and the purchaser's certification that he or she is not prohibited from possessing firearms. A "straw purchase" occurs when the actual

buyer of a firearm uses another person, a “straw purchaser,” to execute the paperwork necessary to purchase a firearm from a federally licensed firearms dealer (FFL). A straw purchaser is a person with a clean background who purchases firearms specifically on behalf of another person, often this person is prohibited from purchasing a firearm. The straw purchaser violates federal law by making a false statement to the FFL about a material fact by lying on ATF Form 4473. Furthermore, the ATF Form 4473 also warns the buyer that making a false statement on the ATF Form 4473 is a felony offense.

15. SA Frese obtained copies of the two ATF Forms 4473 (Firearms Transaction Record) DURHAM completed on August 8, 2024, and August 26, 2024, at the Federal Firearms Licensee “Full Armor Firearms LLC”. DURHAM answered “Yes”, on both dates, to question “21.a.” which asks “Are you the actual transferee/ buyer of all of the firearm(s) listed on this form and any continuation sheet(s) (ATF Form 5300.9A)? Warning: You are not the actual transferee/buyer if you are acquiring any of the firearms on behalf of another person. If you are not the actual transferee/ buyer, the licensee cannot transfer any of the firearm(s) to you.”

16. Based on the foregoing facts, I believe that probable cause exists to establish that **Akwasi DURHAM**, knowingly and unlawfully provided false information to a Federal Firearms Licensee in the Southern District of Texas in violation of Title 18, United States Code, § 922(a)(6).

17. The Following is a timeline of events:

- On **August 8, 2024**, DURHAM purchased twenty-one (21) firearms from Full Armor Firearms LLC, of these firearms one was identified as a Yugoslavia, Model 59/66, 7.62mm rifle, Serial Number 231472.
- On **August 9, 2024**, VIVAS dropped off four (4) boxes at COVENCARGO to be shipped to Javier GONZALES in Venezuela.

- On **August 10, 2024**, VIVAS dropped off two (2) boxes at ZUCARGA Express to be shipped to Javier GONZALES.
- On **August 15, 2024**, DURHAM purchased fourteen (14) Century Arms, Model VSKA, 7.62mm rifles from Full Armor Firearms LLC.
- On **August 26, 2024**, DURHAM purchased ten (10) Century Arms, Model VSKA, 7.62mm rifles from Full Armor Firearms LLC, including one with the Serial Number SV7152082.
- On **August 27, 2024**, VIVAS dropped off four (4) boxes at COVENCARGO to be shipped to Javier GONZALES in Venezuela. COVENCARGO employees opened two (2) of the four (4) boxes and found five (5) firearms concealed inside.
- On **August 27, 2024**, VIVAS dropped off four (4) boxes at ZUCARGA Express to be shipped to Javier GONZALES in Venezuela. ZUCARGA Express Employees opened one (1) box of the four (4) total boxes and found three (3) firearms concealed inside.
- On **August 27, 2024**, SA Frese seizes a total of eight (8) boxes dropped off by VIVAS at both ZUCARGA Express and COVENCARGO. SA Frese found the three firearms in the opened box at ZUCARGA Express to all be Century Arms, Model VSKA, 7.62mm rifles, all with obliterated serial numbers.
- On **September 4, 2024**, SA Frese obtains a search warrant to open and examine the contents of the remaining seven (7) boxes. In the remaining seven (7) boxes I, SA Frese, found twenty-one (21) Century Arms, Model VSKA, 7.62mm rifles, all with obliterated serial numbers, and one (1) Yugoslavia, Model 59/66, 7.62mm rifle, Serial Number 231472.



Robert Frese
Special Agent, Bureau of Alcohol, Tobacco,
Firearms and Explosives (ATF)

SUBSCRIBED AND SWORN TO me telephonically this 27th day of September 2024, and I find probable cause.



The Honorable Peter Bray
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF TEXAS